

AMENDED IN SENATE MAY 1, 2012  
AMENDED IN SENATE APRIL 12, 2012  
AMENDED IN SENATE MARCH 20, 2012

**SENATE BILL**

**No. 1096**

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**Introduced by Committee on Elections and Constitutional  
Amendments (Senators Correa (Chair), De León, Gaines,  
La Malfa, and Lieu)**

February 16, 2012

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An act to amend Sections 8251, 8252, 8252.5, 8253, and 8253.6 of the Government Code, relating to redistricting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1096, as amended, Committee on Elections and Constitutional Amendments. Citizens Redistricting Commission.

Under existing law, the Voters FIRST Act and the Voters FIRST Act for Congress, the Citizens Redistricting Commission is charged with various duties and responsibilities in connection with redistricting Assembly, Senate, Board of Equalization, and congressional districts. Existing law requires the Citizens Redistricting Commission to hire commission staff, legal counsel, and consultants, as needed, and requires the Secretary of State to provide support functions to the Citizens Redistricting Commission until its staff and office are fully functional.

This bill would, instead, require the State Auditor to provide support functions to the Citizens Redistricting Commission until its staff and office are fully functional.

Existing law requires the Governor to include in the Governor's Budget submitted to the Legislature amounts of funding for the State Auditor, the Citizens Redistricting Commission, and the Secretary of

State that are sufficient to meet the estimated expenses of each of those officers or entities in implementing the redistricting process, and requires the Legislature to make the necessary appropriation in the Budget Act.

This bill would delete the requirement that the Governor's Budget include amounts of funding for the Secretary of State in connection with the redistricting process.

Existing law requires the State Auditor to initiate a process by which members of the commission are selected, including requirements that applicants be screened by an Applicant Review Panel comprised of 3 qualified independent auditors, as defined, and that the State Auditor and Applicant Review Panel meet prescribed deadlines in selecting members of the commission.

This bill would revise the prescribed deadlines to provide additional time to select commission members. The bill would redefine the term "qualified independent auditor" to mean only auditors who are employed by the Bureau of State Audits and who have been practicing independent auditors for at least 10 years, thereby limiting membership on the Applicant Review Panel to auditors who are employed by the Bureau of State Audits.

Existing law requires that a vacancy on the commission be filled within 30 days from a specified pool of applicants.

This bill would require that the commission fill a vacancy within 30 days from the specified ~~pool~~ *subpool* of applicants if the vacancy occurs prior to December 31 of a year ending in 2, but within 90 days if the vacancy occurs on or after December 31 of a year ending in 2.

Existing law requires the commission to take public comment for at least 14 days from the date that any map is publicly displayed.

This bill would require the commission to publicly display the first preliminary statewide maps for specified offices no later than July 1 of a year ending in 1, and would prohibit the public display of any other map during the 14 days of public comment for those maps. This bill would require subsequent preliminary statewide maps to be subject to public comment for at least 7 days, and the final statewide maps to be subject to public comment for 3 days.

The Voters FIRST Act, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements, including that the bill containing amendments to the act's provisions be in print for 10 days and that the Legislature not enact amendments to the act's provisions in a year ending in 0 or 1.

This bill would require that a bill be in print for at least 12 days and additionally prohibit the Legislature from amending the act in a year ending in 9.

This bill would declare that it furthers the purposes of the act.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8251 of the Government Code is amended  
2 to read:

3 8251. Citizens Redistricting Commission General Provisions.

4 (a) This chapter implements Article XXI of the California  
5 Constitution by establishing the process for the selection and  
6 governance of the Citizens Redistricting Commission.

7 (b) For purposes of this chapter, the following terms are defined:

8 (1) "Commission" means the Citizens Redistricting Commission.

9 (2) "Day" means a calendar day, except that if the final day of  
10 a period within which an act is to be performed is a Saturday,  
11 Sunday, or holiday, the period is extended to the next day that is  
12 not a Saturday, Sunday, or holiday.

13 (3) "Panel" means the Applicant Review Panel.

14 (4) "Qualified independent auditor" means an auditor who is  
15 currently employed by the Bureau of State Audits and has been a  
16 practicing independent auditor for at least 10 years prior to  
17 appointment to the Applicant Review Panel.

18 (c) The Legislature may not amend this chapter unless all of the  
19 following are met:

20 (1) By the same vote required for the adoption of the final set  
21 of maps, the commission recommends amendments to this chapter  
22 to carry out its purpose and intent.

23 (2) The exact language of the amendments provided by the  
24 commission is enacted as a statute approved by a two-thirds vote  
25 of each house of the Legislature and signed by the Governor.

26 (3) The bill containing the amendments provided by the  
27 commission is in print for at least 12 days before final passage by  
28 the Legislature.

29 (4) The amendments further the purposes of this act.

30 (5) The amendments may not be passed by the Legislature in a  
31 year ending in 9, 0, or 1.

1 SEC. 2. Section 8252 of the Government Code is amended to  
2 read:

3 8252. Citizens Redistricting Commission Selection Process.

4 (a) (1) By August 15 in each year ending in the number nine,  
5 the State Auditor shall initiate an application process, open to all  
6 registered California voters in a manner that promotes a diverse  
7 and qualified applicant pool.

8 (2) The State Auditor shall remove from the applicant pool  
9 individuals with conflicts of interest including:

10 (A) Within the 10 years immediately preceding the date of  
11 application, neither the applicant, nor a member of his or her  
12 immediate family, may have done any of the following:

13 (i) Been appointed to, elected to, or have been a candidate for  
14 federal or state office.

15 (ii) Served as an officer, employee, or paid consultant of a  
16 political party or of the campaign committee of a candidate for  
17 elective federal or state office.

18 (iii) Served as an elected or appointed member of a political  
19 party central committee.

20 (iv) Been a registered federal, state, or local lobbyist.

21 (v) Served as paid congressional, legislative, or State Board of  
22 Equalization staff.

23 (vi) Contributed two thousand dollars (\$2,000) or more to any  
24 congressional, state, or local candidate for elective public office  
25 in any year, which shall be adjusted every 10 years by the  
26 cumulative change in the California Consumer Price Index, or its  
27 successor.

28 (B) Staff and consultants to, persons under a contract with, and  
29 any person with an immediate family relationship with the  
30 Governor, a Member of the Legislature, a Member of Congress,  
31 or a member of the State Board of Equalization, are not eligible  
32 to serve as commission members. As used in this subdivision, a  
33 member of a person's "immediate family" is one with whom the  
34 person has a bona fide relationship established through blood or  
35 legal relation, including parents, children, siblings, and in-laws.

36 (b) The State Auditor shall establish an Applicant Review Panel,  
37 consisting of three qualified independent auditors, that is  
38 responsible for the screening of the applicants. The State Auditor  
39 shall randomly draw names from a pool consisting of all qualified  
40 independent auditors. The State Auditor shall draw until the names

1 of three qualified independent auditors have been drawn, including  
2 one who is registered with the largest political party in California  
3 based on party registration, one who is registered with the second  
4 largest political party in California based on party registration, and  
5 one who is not registered with either of the two largest political  
6 parties in California. After the drawing, the State Auditor shall  
7 notify the three qualified independent auditors whose names have  
8 been drawn that they have been selected to serve on the panel. If  
9 any of the three qualified independent auditors decline to serve on  
10 the panel, the State Auditor shall resume the random drawing until  
11 three qualified independent auditors who meet the requirements  
12 of this subdivision have agreed to serve on the panel. A member  
13 of the panel shall be subject to the conflict-of-interest provisions  
14 set forth in paragraph (2) of subdivision (a).

15 (c) Having removed individuals with conflicts of interest from  
16 the applicant pool, the State Auditor shall, no later than March 15  
17 in each year ending in the number zero, publicize the names in the  
18 applicant pool and provide copies of their applications to the  
19 Applicant Review Panel.

20 (d) From the applicant pool, the Applicant Review Panel shall  
21 select 60 of the most qualified applicants, including 20 who are  
22 registered with the largest political party in California based on  
23 registration, 20 who are registered with the second largest political  
24 party in California based on registration, and 20 who are not  
25 registered with either of the two largest political parties in  
26 California based on registration. These subpools shall be created  
27 on the basis of relevant analytical skills, ability to be impartial,  
28 and appreciation for California's diverse demographics and  
29 geography. The members of the panel shall not communicate with  
30 any State Board of Equalization member, Senator, Assembly  
31 Member, congressional member, or their representatives, about  
32 any matter related to the nomination process or applicants prior to  
33 the presentation by the panel of the pool of recommended  
34 applicants to the Secretary of the Senate and the Chief Clerk of  
35 the Assembly.

36 (e) By May 15 in each year ending in the number zero, the  
37 Applicant Review Panel shall present its subpools of recommended  
38 applicants to the Secretary of the Senate and the Chief Clerk of  
39 the Assembly. No later than June 30 in each year ending in the  
40 number zero, the President pro Tempore of the Senate, the Minority

1 Floor Leader of the Senate, the Speaker of the Assembly, and the  
2 Minority Floor Leader of the Assembly may each strike up to two  
3 applicants from each subpool of 20 for a total of eight possible  
4 strikes per subpool. After all legislative leaders have exercised  
5 their strikes, the Secretary of the Senate and the Chief Clerk of the  
6 Assembly shall jointly present the pool of remaining names to the  
7 State Auditor.

8 (f) No later than July 5 in each year ending in the number zero,  
9 the State Auditor shall randomly draw eight names from the  
10 remaining pool of applicants as follows: three from the remaining  
11 subpool of applicants registered with the largest political party in  
12 California based on registration, three from the remaining subpool  
13 of applicants registered with the second largest political party in  
14 California based on registration, and two from the remaining  
15 subpool of applicants who are not registered with either of the two  
16 largest political parties in California based on registration. These  
17 eight individuals shall serve on the Citizens Redistricting  
18 Commission.

19 (g) No later than August 15 in each year ending in the number  
20 zero, the eight commissioners shall review the remaining names  
21 in the subpools of applicants and appoint six applicants to the  
22 commission as follows: two from the remaining subpool of  
23 applicants registered with the largest political party in California  
24 based on registration, two from the remaining subpool of applicants  
25 registered with the second largest political party in California based  
26 on registration, and two from the remaining subpool of applicants  
27 who are not registered with either of the two largest political parties  
28 in California based on registration. The six appointees must be  
29 approved by at least five affirmative votes which must include at  
30 least two votes of commissioners registered from each of the two  
31 largest parties and one vote from a commissioner who is not  
32 affiliated with either of the two largest political parties in  
33 California. The six appointees shall be chosen to ensure the  
34 commission reflects this state's diversity, including, but not limited  
35 to, racial, ethnic, geographic, and gender diversity. However, it is  
36 not intended that formulas or specific ratios be applied for this  
37 purpose. Applicants shall also be chosen based on relevant  
38 analytical skills and ability to be impartial.

39 SEC. 3. Section 8252.5 of the Government Code is amended  
40 to read:

1 8252.5. Citizens Redistricting Commission Vacancy, Removal,  
2 Resignation, Absence.

3 (a) In the event of substantial neglect of duty, gross misconduct  
4 in office, or inability to discharge the duties of office, a member  
5 of the commission may be removed by the Governor with the  
6 concurrence of two-thirds of the Members of the Senate after  
7 having been served written notice and provided with an opportunity  
8 for a response. A finding of substantial neglect of duty or gross  
9 misconduct in office may result in referral to the Attorney General  
10 for criminal prosecution or the appropriate administrative agency  
11 for investigation.

12 (b) (1) Any vacancy, whether created by removal, resignation,  
13 or absence, in the 14 commission positions that occurs prior to  
14 December 31 of a year ending in the number two shall be filled  
15 by the commission within the 30 days after the vacancy occurs,  
16 from the subpool of applicants of the same voter registration  
17 category as the vacating nominee that was remaining ~~as of July 5~~  
18 ~~in the year in which that subpool was established~~ *after all*  
19 *legislative leaders exercised their strikes pursuant to subdivision*  
20 *(e) of Section 8252.*

21 (2) Any vacancy, whether created by removal, resignation, or  
22 absence, in the 14 commission positions that occurs on or after  
23 December 31 of a year ending in the number two shall be filled  
24 by the commission within the 90 days after the vacancy occurs,  
25 from the subpool of applicants of the same voter registration  
26 category as the vacating nominee that was remaining ~~as of July 5~~  
27 ~~in the year in which that subpool was established~~ *after all*  
28 *legislative leaders exercised their strikes pursuant to subdivision*  
29 *(e) of Section 8252.*

30 (3) If none of those remaining applicants are available for  
31 service, the State Auditor shall establish a new subpool for the  
32 same voter registration category in accordance with Section 8252.

33 SEC. 4. Section 8253 of the Government Code is amended to  
34 read:

35 8253. Citizens Redistricting Commission Miscellaneous  
36 Provisions.

37 (a) The activities of the Citizens Redistricting Commission are  
38 subject to all of the following:

39 (1) The commission shall comply with the Bagley-Keene Open  
40 Meeting Act (Article 9 (commencing with Section 11120) of

Chapter 1 of Part 1 of Division 3), or its successor. The commission shall provide not less than 14 days' public notice for each meeting held for the purpose of receiving public input testimony, except that meetings held in August in the year ending in the number one may be held with three days' notice.

(2) The records of the commission pertaining to redistricting and all data considered by the commission are public records that will be posted in a manner that ensures immediate and widespread public access.

(3) Commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission that is otherwise permitted by the Bagley-Keene Open Meeting Act or its successor outside of a public hearing.

(4) The commission shall select by the voting process prescribed in paragraph (5) of subdivision (c) of Section 2 of Article XXI of the California Constitution one of their members to serve as the chair and one to serve as vice chair. The chair and vice chair shall not be of the same party.

(5) The commission shall hire commission staff, legal counsel, and consultants as needed. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in paragraph (2) of subdivision (a) of Section 8252 to the hiring of staff to the extent applicable. The State Auditor shall provide support functions to the commission until its staff and office are fully functional. Any individual employed by the commission shall be exempt from the civil service requirements of Article VII of the California Constitution. The commission shall require that at least one of the legal counsel hired by the commission have demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes including at least three votes of members registered from each of the two largest parties and three votes from



1 members who are not registered with either of the two largest  
2 political parties in California.

3 (6) Notwithstanding any other provision of law, no employer  
4 shall discharge, threaten to discharge, intimidate, coerce, or retaliate  
5 against any employee by reason of that employee's attendance or  
6 scheduled attendance at any meeting of the commission.

7 (7) The commission shall establish and implement an open  
8 hearing process for public input and deliberation that shall be  
9 subject to public notice and promoted through a thorough outreach  
10 program to solicit broad public participation in the redistricting  
11 public review process. The hearing process shall include hearings  
12 to receive public input before the commission draws any maps and  
13 hearings following the drawing and display of any commission  
14 maps. In addition, hearings shall be supplemented with other  
15 activities as appropriate to further increase opportunities for the  
16 public to observe and participate in the review process. The  
17 commission shall display the maps for public comment in a manner  
18 designed to achieve the widest public access reasonably possible.  
19 Public comment shall be taken for at least 14 days from the date  
20 of public display of the first preliminary statewide maps of the  
21 congressional, State Senatorial, Assembly, and State Board of  
22 Equalization districts, which shall be publicly displayed no later  
23 than July 1 in each year ending in the number one. The commission  
24 shall not display any other map for public comment during the  
25 14-day period. The first preliminary statewide maps and all  
26 subsequent statewide maps shall comply, to the extent practicable,  
27 with the criteria set forth in subdivision (d) of Section 2 of Article  
28 XXI of the California Constitution. Public comment shall be taken  
29 for at least seven days from the date of public display of any  
30 subsequent preliminary statewide maps and for at least three days  
31 from the date of public display of any final statewide maps.

32 (b) The Legislature shall take all steps necessary to ensure that  
33 a complete and accurate computerized database is available for  
34 redistricting, and that procedures are in place to provide the public  
35 ready access to redistricting data and computer software for  
36 drawing maps. Upon the commission's formation and until its  
37 dissolution, the Legislature shall coordinate these efforts with the  
38 commission.

39 SEC. 5. Section 8253.6 of the Government Code is amended  
40 to read:

1 8253.6. Citizens Redistricting Commission Budget, Fiscal  
2 Oversight.

3 (a) In each year ending in nine, the Governor shall include in  
4 the Governor's Budget submitted to the Legislature pursuant to  
5 Section 12 of Article IV of the California Constitution amounts  
6 of funding for the State Auditor and the Citizens Redistricting  
7 Commission that are sufficient to meet the estimated expenses of  
8 each of those officers or entities in implementing the redistricting  
9 process required by this act for a three-year period, including, but  
10 not limited to, adequate funding for a statewide outreach program  
11 to solicit broad public participation in the redistricting process,  
12 including the solicitation of applicants. The Governor shall also  
13 make adequate office and meeting space available for the operation  
14 of the commission. The Legislature shall make the necessary  
15 appropriation in the Budget Act, and the appropriation shall be  
16 available during the entire three-year period. The appropriation  
17 made shall be equal to the greater of three million dollars  
18 (\$3,000,000), or the amount expended pursuant to this subdivision  
19 in the immediately preceding redistricting process, as each amount  
20 is adjusted by the cumulative change in the California Consumer  
21 Price Index, or its successor, since the date of the immediately  
22 preceding appropriation made pursuant to this subdivision. The  
23 Legislature may make additional appropriations in any year in  
24 which it determines that the commission requires additional funding  
25 in order to fulfill its duties.

26 (b) The commission, with fiscal oversight from the Department  
27 of Finance or its successor, shall have procurement and contracting  
28 authority and may hire staff and consultants, exempt from the civil  
29 service requirements of Article VII of the California Constitution,  
30 for the purposes of this act, including legal representation.

31 SEC. 6. The Legislature finds and declares that this bill furthers  
32 the purposes of the Voters FIRST Act within the meaning of  
33 paragraph (4) of subdivision (c) of Section 8251 of the Government  
34 Code.